

# DECISION



## THE COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-222428.2

**FILE:**

**DATE:** June 3, 1986

**MATTER OF:**

Westinghouse Electric Corporation,  
Westinghouse Furniture Systems Division--  
Reconsideration

**DIGEST:**

1. Dismissal of protest for failure to meet the requirement that a protester provide the contracting agency with a copy of the protest within 1 working day after the protest is filed is affirmed. Placing a copy of the protest in the possession of the United States Postal Service for delivery to the contracting agency does not provide timely notice of the protest allegations to those contracting officials who will have the responsibility, initially, for preparing the agency report which must be furnished to the General Accounting Office within 25 working days following the agency's receipt of notice of the protest from GAO.
2. Allegation that protest raises issues significant to the procurement system does not provide a basis for an exception to the requirement that a protester provide a copy of its protest to the contracting agency within 1 working day after the protest is filed.

Westinghouse Electric Corporation, Westinghouse Furniture Systems Division (Westinghouse), requests reconsideration of our dismissal of its protest concerning request for quotations No. F41800-86-Q-0063, issued by the Department of the Air Force (Air Force), San Antonio Contracting Center, San Antonio, Texas, for systems furniture. Westinghouse challenged the agency's determination that Westinghouse's proposed furniture did not meet the agency's minimum needs, arguing that the agency's determination was inconsistent with Westinghouse's multiple award Federal Supply Schedule (FSS) contract for systems furniture.

We dismissed the protest because Westinghouse did not furnish a copy of it to the contracting agency within 1 working day after filing the protest with our Office, as

required under section 21.1(d) of our Bid Protest Regulations, 4 C.F.R. part 21 (1985). We affirm the dismissal.

Westinghouse, which maintains a Government Sales and Relations office for the Westinghouse Furniture Systems Division in Washington, D.C., argues that it complied with our Bid Protest Regulations "by placing said protest in the possession of the United States Postal Service at this location." Westinghouse points out in this regard that the address provided in the solicitation for the contracting activity in San Antonio is a post office box and, thus, not accessible by 1-day express delivery service.

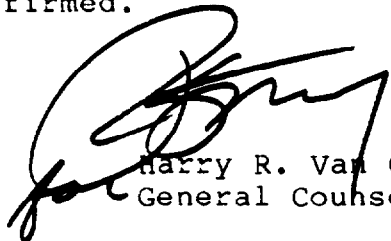
Section 21.1(d) of our Bid Protest Regulations, however, specifically states that "the contracting officer must receive a copy of the protest no later than 1 [working] day after the protest is filed" (emphasis added) with our Office. The basis for the 1-day notice requirement is found in the Competition in Contracting Act of 1984, 31 U.S.C.A. § 3553 (West Supp. 1985), which requires our Office to notify the contracting agency of the protest within 1 working day of the receipt of it and requires the agency to file a written report with our Office within 25 working days following notice of the protest from our Office. Any delay in furnishing a copy of the protest to the contracting agency not only hampers the agency's ability to meet the 25-day statutory deadline, but also delays protest proceedings and frustrates our efforts to consider all objections to agency procurement actions in as timely fashion as possible. See Sabin Metal Corp.--Reconsideration, B-219171.2, July 24, 1985, 85-2 C.P.D. ¶ 79; Agha Corp.--Reconsideration, B-218741.3, June 10, 1985, 85-1 C.P.D. ¶ 662.

We fail to see how placing a copy of the protest "in the possession of the United States Postal Service" provides timely notice of the protest allegations to those contracting officials who will have the responsibility, initially, for preparing the agency report which must be furnished within 25 days. See Carlyle Van Products--Reconsideration, B-221331.2, Jan. 26, 1986, 86-1 C.P.D. ¶ 89 (the fact that the protester may have mailed copy within the necessary period is not relevant, since the requirement is for receipt by agency). We also are not persuaded by the fact that the contracting agency's address was a post office box provides a basis for an exception to the 1-day filing requirement. In this regard, the Air Force has advised us that the

copy of the protest letter sent by Westinghouse was postmarked March 25--4 calendar days after the protest was filed with our Office--and was not received by the San Antonio Contracting Center until March 28, 7 calendar days after the protest was filed with us.

Westinghouse also argues that a decision by our Office on the merits of its protest is needed to establish the principle that the government must comply with the terms of the multiple award FSS contract, thereby setting a precedent for "future solicitations and awards regardless of the vendor." We point out, however, that while our Bid Protest Regulations provide for our consideration of untimely allegations which raise issues significant to the procurement system, 4 C.F.R. § 21.2(c), if we have not previously considered similar issues, there is no similar provision for waiving the requirement to timely furnish the agency a copy of the protest. Agha Constr.--Reconsideration, B-218741.3, supra, 85-1 C.P.D. ¶ 662 at 2. Moreover, the significant issue exception would be inapplicable here, in any case, since we have previously considered agency determinations as to whether and which products on the FSS meet an agency's minimum needs, see e.g. A.B. Dick Co., B-219902, Oct. 17, 1985, 85-2 C.P.D. ¶ 417; Dictaphone Corp., B-216264, et al., Feb. 7, 1985, 85-1 C.P.D. ¶ 229, and the interpretation of Westinghouse's particular FSS contract would not be of significance to the procurement community as a whole.

The dismissal is affirmed.



Harry R. Van Cleve  
General Counsel